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Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, Union of Arab Jurists, United Towns Agency for North-South Cooperation, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* Issued as received, in the language(s) of submission only.

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Myanmar: The Continued Struggle of Rohingya for Citizenship**

Background

Human rights violations in the Republic of the Union of Myanmar have been persistent ever since the beginning of the civil war in 1948. The conflict resulted in numerous civilian casualties and deaths, refugee crisis, and destruction of infrastructure including towns and villages. The continued conflict between the government and the ethnic groups indefinitely violated the international humanitarian law and human rights law after the end of the British Colonial rule. Mass atrocities have been committed such as rape and sexual violence, enforced disappearances, forced displacement, human trafficking and forced labor, and recruitment of child soldiers to name a few. The access to humanitarian aid has also been limited and various attempts to have ceasefire went in vain.

Myanmar hosts around 135 ethnic minorities, and most of the ethnic and religious minorities have faced gross and systematic human rights violations in Myanmar. And, Rohingya being one of the ethnic minorities of one million is the most victimized minority in the Rakhine State of Myanmar. The main cause for this is the Myanmar government does not recognize them as citizens of Myanmar, and have denied them nationality. The discrimination is based on their ethnicity, cultural and religious background. As a result, grave human rights violations have been committed against the Rohingya population leading to mass displacement.

The Memorandum of Understanding (MoU) between Myanmar and UN agencies

In January 2018, the governments of Bangladesh and Myanmar signed an agreement to allow the physical repatriation of Rohingya Refugees that fled to Bangladesh after the violence broke out against the Rohingya in the Rakhine State of Myanmar. The agreement states that five transit camps would be set up by Bangladesh on the side of its border and the Rohingya would be sent to two receptions in Myanmar. However, this agreement fails to look at the grave human rights abuses and accountability of the perpetrators without which the reparation would be meaningless.

In June 2018, the Tripartite agreement between the government of Myanmar and two United Nations agencies - United Nations High Commissioner for Refugees (UNHCR) and United Nations Development Programme (UNDP) - is entered to "establish a framework for cooperation aimed at creating the conditions conducive to the voluntary, safe, dignified and sustainable repatriation of Rohingya refugees to their places of origin or of their choosing."[1]

The agreement affirms the commitment of the government of Myanmar to work with UNHCR and UNDP to find a solution for the Rohingya refugee crisis with accordance to the recommendations provided by the Advisory Commission of Rakhine State. The recommendations include granting of citizenships, and ensuring free movement of people without any discrimination based on religion, ethnicity, or citizenship status. The agreement enables the UN agencies to assess the conditions of the refugees and make decisions on voluntary return.

Continued Struggle for Citizenship

Despite the MoU and the agreement between Myanmar and Bangladesh, the Rohingya have not returned to Myanmar. The government of Myanmar has failed to dismantle any discriminatory laws, policies and practices against the Rohingya which makes it hard or rather impossible for the refugees to return to their homes in the near future, as mentioned by the UN Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee.

As mentioned in the oral update by the High Commissioner in 2018, not a single refugee has returned to their own homes, even the ones that returned under the framework of the UoM tripartite agreement have been detained.

The most challenging problem for the Rohingya is that of Citizenship Status. Today, the Rohingya are the biggest community of stateless people in the world.[2] The 1982 Burmese Citizenship Law provides citizenship based on

[1] Refugees, United. "UNHCR and UNDP agree on text of MoU with Myanmar to support the creation of conditions for the return of Rohingya refugees". *UNHCR*, 2018. Available: http://www.unhcr.org/news/press/2018/5/5b0fff7b4/unhcr-undp-agree-text-mou-myanmar-support-creation-conditions-return-rohingya.html.

[2] McPherson, Poppy, and Zeba Siddiqui. "Secret U.N.-Myanmar deal on Rohingya offers no guarantees on...". *U.S.*, 2018. Online. Internet. 10 Aug. 2018. . Available: https://www.reuters.com/article/us-myanmar-rohingya/secret-u-n-myanmar-deal-on-rohingya-offers-no-guarantees-on-citizenship-idUSKBN1JP2PF.

ethnicity which recognized 135 ethnic groups excluding the Rohingya, thus, gravely violating their fundamental rights and freedoms including restriction on their right to freedom of movement, limits on access to lifesaving health care and denial of the rights to education and equal employment opportunities. In 1989, during the process of citizenship inspection in Myanmar, National Registration Cards (NRCs) were replaced with Citizenship Scrutiny Cards (CSCs) to those who met the new requirements. Most of the Muslims in the Rakhine State who gave up their NRCs did not receive their CSCs. However, in 1995, the Muslims who did not have their national documents were provided with Temporary Residency Card (TRCs) or White Cards. The TRCs were invalidated during the election in 2015, which took away their right to vote. The National Verification Cards (NVC) are the latest form of the document provided to the Rohingya, a document that does not recognize their citizenship status.

It is obvious today that Rohingya have been facing several problems both outside Myanmar and inside Myanmar including villages burned, soldiers shooting randomly on the streets, people disappearing for failing to pay bribes, and systematic persecutions in Rakhine. The fact that nationality is based upon ethnicity restricts basic rights such as the right to health, education and political participation.

Under the framework of the tripartite agreement, the citizenship status and rights of refugees were the central focus. One of the main drawbacks of the MoU is that "returnees will enjoy the same freedom of movement as all other Myanmar nationals in Rakhine State, in conformity with existing laws and regulations"[3] but does not ensure any freedom of movement outside the Rakhine State.

The persecution of this ethnic group since 1982 in combination with the widespread and systematic criminal acts committed against them since 2012 fulfil the elements of genocide as defined by the Rome Statute of the International Criminal Court and the Convention on the Prevention and Punishment of the Crime of Genocide. Namely, killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

Conclusion

The MoU and the agreement between Myanmar and Bangladesh overlook the violations and atrocities committed against the Rohingya, without which the "voluntary and safe" return of refugees can never be achieved. The rise of religious intolerance and persecution led to mass displacement of Rohingya and the biggest refugee crisis in the world. The UN calls the atrocities in the Rakhine State as "textbook example of ethnic cleansing". The violence and the human rights abuses committed against the Rohingya would be inevitable if the government of Myanmar does not recognize Rohingya as its citizens. This is the first step to broker peace in the country. The recognition of Rohingya as citizens of Myanmar would also ensure the voluntary return of the refugees.

Recommendations

To the Myanmar Government:

- To dismantle the discriminatory laws, policies, and practices against the Rohingya.
- To ensure the safe return of Rohingya refugees and IDPs by recognising and granting citizenship status to all Rohingya.
- To ensure the safe access across the border of the Rakhine State to Rohingya.
- To work with the UN Fact-Finding Mission (FFM) and allow access to the High Commissioner, the Special Rapporteur, and the Commission on Inquiry to the Rakhine State.
- To comply with the standards of International Law and International Human Rights Law and International Humanitarian Law.
- Myanmar troops should respect the Rule of Law and halt the violence.

To the Human Rights Council:

- To ensure the implementation of the Tripartite MoU between the Myanmar government and the UN agencies.
- To call on the international community for their support to end the atrocities committed against the Rohingya by pressuring Myanmar to abide by its international obligations and responsibilities.
- If the above joint efforts fail, to refer the issue to the Security Council in order to take actions based on Chapter VII of the Charter to restore peace and security and to protect the Rohingya minority.

[3] McPherson, Poppy, and Zeba Siddiqui. "Secret U.N.-Myanmar deal on Rohingya offers no guarantees on...". *U.S.*, 2018. Online. Internet. 10 Aug. 2018. . Available: https://www.reuters.com/article/us-myanmar-rohingya/secret-u-n-myanmar-deal-on-rohingya-offers-no-guarantees-on-citizenship-idUSKBN1JP2PF.

**Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, NGOs without consultative status, also share the views expressed in this statement.